

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JAMAAL A. MCNEIL,	)	8:07CV149
	)	
Plaintiff,	)	
	)	
v.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
STATE OF NEBRASKA, et al.,	)	
	)	
Defendants.	)	

This matter is before the court on Plaintiff's "Motion for In Forma Pauperis" (filing no. [67](#)) and "Motion for a All Writs Act Mandamus" (filing no. [65](#)). The court previously dismissed the above-captioned matter without prejudice and entered judgment on January 31, 2008. (Filing Nos. [29](#) and [30](#).)

As Plaintiff has been informed numerous times, he cannot bring a civil action in forma pauperis because he has on three or more occasions, while incarcerated, brought an action that was dismissed on the grounds that it was frivolous, malicious, or failed to state a claim upon which relief may be granted. See [28 U.S.C. §1915\(g\)](#). See also [McNeil v. Public Defender Office, No. 4:06CV3204 \(D. Neb.\)](#); [McNeil v. City of Omaha, et al., No. 8:07CV145 \(D. Neb.\)](#); [McNeil v. City of Omaha, et al., No. 8:07CV143 \(D. Neb.\)](#). Here, Plaintiff has not shown that he faces an imminent danger of serious physical injury, nor has he paid the filing fee for a Petition for Writ of Mandamus. See [Fed. R. App. P. 21\(a\)](#). Accordingly, the court will deny Plaintiff's Motion for Writ of Mandamus without prejudice to reassertion before the Eighth Circuit Court of Appeals. See [In re Tyler, 110 F.3d 528, 529 \(8th Cir. 1997\)](#) (prisoner filing petition for writ of mandamus who was ineligible for IFP status because of PLRA's "three strikes" provision, 28 U.S.C. § 1915(g), was ordered by the Eighth Circuit to pay the required filing fee within 15 days or else the petition would be dismissed with prejudice for failure to prosecute).

IT IS THEREFORE ORDERED that:

1. Plaintiff's "Motion for In Forma Pauperis" (filing no. [67](#)) and "Motion for a All Writs Act Mandamus" (filing no. [65](#)) are denied without prejudice to reassertion before the Eighth Circuit Court of Appeals.

2. The Clerk of the court is directed to send a copy of this order to the Eighth Circuit Court of Appeals.

DATED this 1<sup>st</sup> day of November, 2011.

BY THE COURT:

*Richard G. Kopf*

United States District Judge

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